

DEFAULT
10/13/83

AUG 9 1983

Dear Sir or Madam:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

As stated in your articles of incorporation you are formed "to encourage cooperation and free intercourse among artists and others engaged in artistic activities; to provide services and facilities to artists; to hold competitions and exhibitions; to promote the study and improvement of the arts; and to encourage support and assist the arts in [REDACTED]."

Your activities consist of the following; a computer service to aid artists to locate persons in the performing arts to help produce their works. Produce video tapes for organizations and individuals and help market them. Help writers produce writings. Purchase gallery space so artists can show and sell their works. Provide day care for artists. Provide discounts on materials and supplies for projects.

Your income is derived from dues, commissions on art sales and on video tapes, and receipts from fund raising.

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes."

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Moreover, an organization is not organized or operated exclusively for one or more of the purposes specified in section 501(c)(3) unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Most of your activities are designed with the interest of your incorporators and/or membership in mind rather than the general public.

Revenue Ruling 66-178, 1966-1 C.B. 138, holds that an organization that fosters and develops the arts by sponsoring a public art exhibit at which the works of unknown but promising artists are gratuitously displayed may qualify for exemption under section 501(c)(3) of the Code. The organization does not sell or offer the displayed works for sale.

Revenue Ruling 71-395, 1971-1 C.B. 223, holds that a cooperative art gallery formed and operated by a group of artists for the purpose of exhibiting and selling their works does not qualify for recognition of exemption from Federal income tax under section 501(c)(3) of the Code.

Revenue Ruling 76-152, 1976-1 C.B. 151, holds that a non-profit organization formed by art patrons to promote community understanding of modern art trends by selecting for exhibit, exhibiting, and selling art works of local artists, retaining a commission on sales less than customary commercial charges does not qualify for exemption under section 501(c)(3) of the Code.

The term "charitable" traditionally carried with it a connotation of "public benefit" as recognized in Section 1.501(c)(3)-1(d)(ii) of the Regulations. Therefore, to be recognized as exempt under section 501(c)(3) of the Code, an organization must be organized and operated exclusively for charitable purposes, must serve a public interest, and must not be operated for the benefit of private interests.

As in the case of Revenue Ruling 76-152, the artists in your case are being directly benefited by the exhibition and sale of their works, with the result that a major activity of the organization is serving the interests of those artists whose works are displayed for sale.

Moreover, your computer service, your day care service and material and supply discount service benefits the individual artists rather than the general public.

It is our determination that you are not operated exclusively for one or more exempt purposes and, therefore, you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Code.

You are required to file Federal income tax returns on Form 1120 for each year that you have been in existence. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018. Please note the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

As provided by section 6104(c) of the Internal Revenue Code of 1954 and the applicable regulations, the appropriate State officials are being notified of our determination.

Sincerely yours,

District Director

Enclosures:
Publication 892
Form 6018

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SUR. NAME							
DATE		8/24/83	8/24/83	8/25/83			